



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/599,489

11/09/2006

Jochen Tittgen

IVGN 979

9706

52059 7590 10/08/2009
LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER

THERKORN, ERNEST G

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

10/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|----------------------------------------|--|
| Office Action Summary | Application No. 10/599,489 | Applicant(s) TITTGEN, JOCHEN | |
| | Examiner Ernest G. Therkorn | Art Unit 1797 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 22-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 15-17 and 19-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "probably has" renders the claim indefinite.

Claim 18 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may not use the phrase "any one of the preceding claims". See MPEP § 608.01(n). Accordingly, the claim 18 has not been further treated on the merits.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17 and 19-21 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Connors (WO 97/24169).

The claims are considered to read on Connors (WO 97/24169). If a difference exists between the claims and Connors (WO 97/24169), it would reside in optimizing the elements of Connors (WO 97/24169). It would have been obvious to optimize the elements of Connors (WO 97/24169) to enhance separation.

Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conners (WO 97/24169) in view of Malkin (U.S. Patent Publication No. 2002/0108896). At best, the claims differ from Conners (WO 97/24169) in the clarity of reciting struts. Malkin (U.S. Patent Publication No. 2002/0108896) (paragraph 24 and 29) discloses that the use of struts prevents the collapse of the filtration device and the solid end portion 20 allows fluids to enter and fill the filtration device. It would have been obvious to use struts in Conners (WO 97/24169) because Malkin (U.S. Patent Publication No. 2002/0108896) (paragraph 24 and 29) discloses that the use of struts prevents the collapse of the filtration device and the solid end portion 20 allows fluids to enter and fill the filtration device.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conners (WO 97/24169) in view of each of Tittgen (DE 10,201,858) with its Google translation of paragraphs 31-33, McLean (U.S. Patent No. 3,187,663), Painter (U.S. Patent No. 3,235,088), Scarano (U.S. Patent No. 5,118,421), Van Ooijen (U.S. Patent No. 5,344,559), and May (U.S. Patent No. 5,419,373). At best, the claims differ from Conners (WO 97/24169) in the clarity of reciting paper. Tittgen (DE 10,201,858) (column 4, lines 21-54) with its Google translation of paragraphs 31-33 discloses that a paper filter has the advantage of easy removal, is suitable for filtering precipitated cell components, and can be disposed of because it has no plastic components. McLean (U.S. Patent No. 3,187,663) (column 3, lines 42-63) discloses that filter paper is a suitable disposable filter element for a wire cage. Painter (U.S. Patent No. 3,235,088) (column 1, lines 13-19 and column 3, lines 15-22) discloses that it is common practice

Art Unit: 1797

to use filter paper in sheet form for wire cages. Scarano (U.S. Patent No. 5,118,421) (column 2, lines 20-22 and 45-46) discloses paper is a suitable filter medium for a cage of vertical and horizontal members. Van Ooijen (U.S. Patent No. 5,344,559) (column 3, lines 30-44) discloses that paper is a suitable filter medium for cages. May (U.S. Patent No. 5,419,373) (column 1, lines 10-19) discloses that for four decades paper has been widely used as a replacement filter with a structural mechanical support. It would have been obvious to use paper in Conners (WO 97/24169) either because Tittgen (DE 10,201,858) (column 4, lines 21-54) with its Google translation of paragraphs 31-33 discloses that a paper filter has the advantage of easy removal, is suitable for filtering precipitated cell components, and can be disposed of because it has no plastic components; or because McLean (U.S. Patent No. 3,187,663) (column 3, lines 42-63) discloses that filter paper is a suitable disposable filter element for a wire cage; or because Painter (U.S. Patent No. 3,235,088) (column 1, lines 13-19 and column 3, lines 15-22) discloses that it is common practice to use filter paper in sheet form for wire cages; or because Scarano (U.S. Patent No. 5,118,421) (column 2, lines 20-22 and 45-46) discloses paper is a suitable filter medium for a cage of vertical and horizontal members; or because Van Ooijen (U.S. Patent No. 5,344,559) (column 3, lines 30-44) discloses that paper is a suitable filter medium for cages; or because May (U.S. Patent No. 5,419,373) (column 1, lines 10-19) discloses that for four decades paper has been widely used as a replacement filter with a structural mechanical support.

The restriction requirement has been reconsidered, deemed proper, and made final for the reasons of record.

Art Unit: 1797

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ernest G. Therkorn/
Ernest G. Therkorn
Primary Examiner
Art Unit 1797

EGT
September 25, 2009